S
345.212
G1MJL
1972

MONTANA JUVENILE LAW

GOVERNOR'S
CRIME CONTROL
COMMISSION
1972

Montana State Library
3 0864 1006 0736 8

MONTANA JUVENILE LAW

by

Harold Dye
School Of Law
University of Montana

Published by
Governor's Crime Control Commission

TABLE OF CONTENTS

PART I

NARRATIVE EXPLANATION OF THE MONTANA JUVENILE COURT

		Page
A.	Historical Background	1
B.	Montana Juvenile Court Law	2
C.	Interstate Compact on Juveniles	6
D.	IN Re Gault	9

PART II

STATUTORY TEXT

A. Juvenile Courts

Section		
10-601	Construction and purpose of the act	11
10-602	Definitions	11
10-603	Jurisdiction	12
10-604.1	Right to jury trial -- drawing the jury	13
10-605.1	Preliminary inquiry -- disposition -- petition	14
10-606	Citation -- notice--custody of child	14
10-607	Service of citation	14
10-608	Failure to obey citation--warrant	15
10-608.1	Taking child into custody --release --holding child until hearing-- notification of apprehension	15
10-610	Transfer from other courts	16
10-611	Hearing -- judgment	16
10-611.1	Power of district court to commit child to reception and evaluation center	18

APPENDIX A

OFFENSE	RCM. 1947
ABDUCT (See Kidnap)	
ABORTION	
Abortion	94-401
Attempt	94-402
ACCESSORY	
Accessories	94-205
ALCOHOL (See Liquor)	
ARSON	
1st degree -- burning dwelling	94-502
2nd degree -- burning building other than a dwelling	94-503
3rd degree -- burning property valued at $25 or less	94-504
4th degree -- attempted arson	94-505
ASSAULT	
1st degree -- with intent to kill	94-601
2nd degree -- grievous bodily harm	94-602
3rd degree -- minor assaults	94-603
AUTO THEFT	
Grand larceny	94-2704
Taking a car without the owner's consent	94-3305
BIGAMY	
Bigamy	94-701
BLACKMAIL (See Estortion)	
BREAKING AND ENTERING (See Burglary)	
BRIBERY	
Bribery	94-801

BURGLARY
1st degree -- nighttime 94-902
2nd degree -- daytime 94-902
Burglary with use of explosives 94-906
Possessing burglary tools 94-908

BURNING (See Malicious Mischief)

CHALLENGE (See Duel)

CHEAT (See Fake)

CHECK CHARGES
Forging checks 94-2001
Fraudulent checks -- insufficient funds 94-2702
Fictitious checks -- no account 94-2007
Possessing stolen checks 94-2721

CONCEALED WEAPONS (See Weapons)

CONCEALING CRIMES (See Miscellaneous)

CONFIDENCE GAME (See Fake)

CONSPIRACIES
Criminal Conspiracy 94-1101

CONTEMPT OF COURT (See Miscellaneous)

COUNTERFEITING (See Forgery)

CRUELTY TO ANIMALS (See Miscellaneous)

DELINQUENCY
Curfew violation 16-1182
Incorrigible -- ungovernable 10-602
Probation violation 10-623
Runaway -- local resident 10-602
Runaway -- non-resident 10-602
Truancy -- school 75-2901
Unsupervised 10-602

HOMICIDE, cont'd.
Murder -- 1st degree 94-2503
Murder -- 2nd degree 94-2503

ILLEGAL POSSESSION OF ALCOHOLIC BEVERAGES (See Liquor Violations)

IMMORAL (See Sex Offenses)

INCEST (See Sex Offenses)

INDECENT EXPOSURE (See Sex Offenses)

INDIAN OFFENSES (See Miscellaneous)

INVOLUNTARY MANSLAUGHTER (See Homicide)

JUVENILE DELINQUENCY (See Delinquency)

KIDNAPPING
Abduction and kidnapping 94-2601

LARCENY
Grand larceny -- $50 value or more 94-2704
Petit larceny -- less than $50 value 94-2705
Possession of stolen property 94-2721
Shoplifting 94-2701

LIQUOR VIOLATIONS
Illegal possession 94-35-106. 2
Misrepresenting age or false ID used to purchase liquor 4-512
Drunk 4-159

LOTTERIES (See Gambling)

MALICIOUS MISCHIEF AND VANDALISM
Burning on forbidden premises 94-3309
Burning property not covered by arson 94-3303
Crop destruction 93-3310
Defacing public property 94-3333
Hunting on enclosed property 94-3308

MALICIOUS MISCHIEF AND VANDALISM, cont'd.
Malicious destruction of property over $50 value (a felony) 94-3301
Malicious destruction of property under $50 value (a misdemeanor) 94-3301
Opening mail 94-3320
Trespassing 94-3308

MAYHEM
Cause a loss of a member of a person's body 94-3401

MISCELLANEOUS OFFENSES
Aid or encourage suicide 94-35-215
Compounding or concealing a crime 94-3535
Contempt of court 94-3540
Cruelty to animals 94-1201
Indian and other federal cases referred for federal disposition (no state action)
Switch blade knives 94-35-273
Vagrancy 94-35-248

MISCARRIAGE (see Abortion)

MURDER (See Homicide)

NARCOTICS (See Drugs)

NEGLECT (See Delinquency)

OBSCENITY (See Sex Offenses)

PAROLE VIOLATION
Aftercare recall 80-1416

PERJURY
Perjury 94-5801

PISTOLS (See Weapons)

RAPE	
Forcible rape	94-4101
Forcible rape with injury	94-4101
Statutory rape	94-4101
RESISTING ARREST	
Resisting officers	94-3905
RIOTS	
Riotous conduct	94-35-181
ROBBERY	
Armed robbery with deadly weapon	94-4304
Strong armed robbery with force or fear	94-4305
Attempted robbery	94-4306
RUNAWAY (See Delinquency)	
SABOTAGE	
Sabotage	94-4405
SEX OFFENSES (Other than Rape)	
Crime against nature -- sodomy	94-4118
Immoral conduct	10-602-2E
Indecent exposure	94-3603
Incest	94-705
Lewd and lacivious acts	94-4106
Obscene literature	94-3601
Prostitution	94-35-348.6
SHOPLIFTING (See Larceny)	
STOLEN PROPERTY (See Larceny)	
SUICIDE (See Miscellaneous)	
THEFT (See Larceny)	
TOMBSTONES	
Defacing tombs or monuments	94-4607

TRAFFIC REGULATIONS

D.W.I. -- liquor or drugs	32-2142
Hit and run	32-1207
Reckless driving	32-2143
Speeding	32-2144
All other	Title 3 Chapter 21

TRUANCY (See Delinquency)

UNGOVERNABLE OR INCORRIGIBLE (See Delinquency)

UNLAWFUL ASSEMBLY (See Riots)

VAGRANCY (See Miscellaneous)

VANDALISM (See Malicious Mischief)

VENEREAL DISEASE

Exposing other persons	69-4601
Suspected carrier	69-4605

WEAPONS

Carrying a concealed weapon	94-3525
Carrying a weapon with intent to assault	94-909
Exhibiting deadly weapon unlawfully	94-3543
Firing firearms unlawfully	94-3578
Toy pistols	94-35-222

10-612	Form of commitment to state juvenile facility	18
10-613	Modification of judgment	19
10-614	Selection of custodial agency	19
10-615	Support of delinquent child committed to a custodial agency	20
10-616	Support of dependents	20
10-617	Penalty for improper and negligent training of children	20
10-621	Designation of judge	21
10-622	Probation officers -- appointments -- removal -- salaries	21
10-623	Duties and powers of the probation department	22
10-624	Bond of the chief probation officer	23
10-625	Physical and mental examinations and treatment	23
10-626	Place of detention	23
10-627	Foster homes -- youth home	24
10-628	Juvenile court committee	24
10-629	County attorney to prosecute	24
10-630	Appeals	25
10-631	County commissioners authorized to provide funds	25
10-633	Publicity forbidden	25
80-1416	Detention of child who violates aftercare agreement -- delivery on request to aftercare division	25
80-2204	Maximum age of commitment	26

B. Montana Traffic Law Pertaining to Juveniles

32-21-163	Unlawful operation by child under eighteen -- concurrent original jurisdiction of district court and justice court -- penalties -- impounding of vehicle	26
32-21-164	Summons -- issuing to child under eighteen	27

32-21-165	Court learning of unlawful operation by child under eighteen -- authority	27
94-801-2	Traffic fines collected from juvenile offenders -- disposition	28

C. Interstate Compact on Juveniles

10-1001	Compact ratified -- text	28
Article I	Findings and purposes	29
Article II	Existing rights and remedies	29
Article III	Definitions	29
Article IV	Return of runaways	30
Article V	Return of escapees and absconders	32
Article VI	Voluntary return procedure	34
Article VII	Cooperative supervision of probationers and parolees	35
Article VIII	Responsibility for costs	36
Article IX	Detention practices	37
Article X	Supplementary agreements	38
Article XI	Acceptance of federal and other aid	38
Article XII	Compact administrators	38
Article XIII	Execution of compact	38
Article XIV	Renunciation	38
Article XV	Severability	39
10-1002	Juvenile compact administrator	39
10-1003	Supplementary agreement	39
10-1004	Financial arrangements	40
10-1005	Responsibilities of state departments, agencies and officers	40
10-1006	Additional procedures not precluded	40

D. Dependent and Neglected Children

10-501	Dependent and neglected children -- definition	40
10-502	Jurisdiction of courts -- jury trial	41
10-503	Applications to courts with reference to dependent or neglected children	41

E. Reports of Child Neglect or Abuse

10-901	Declaration of policy	52
10-902	Reports	52
10-903	Action on reporting	53
10-904	Immunity from liability	53
10-905	Admissibility of evidence	53

F. Crimes Against or Concerning Children

4-330	Purchase of beer by retailers -- persons to whom beer may not be sold, delivered or given by brewers, wholesalers or retailers	54
4-337	Railroad car or carriers license -- application for and issuance of license -- inspection -- sale to persons under nineteen years or disorderly person.	54
4-345	Common nuisance defined -- misdemeanor -- lien on premises -- disposal of beer to minors	55
4-413	Persons to whom liquor may not be sold or given.	56
4-439	Penalty for violating act -- revocation of license	56
10-202	Liability of parent	57
10-207	Prohibiting employment of children in mines	57
10-208	Employment of a child in a mine -- penalty	57
10-209	Parent permitting employment -- guilty of misdemeanor	57
69-1902	Prohibitions and exceptions	58
75-6109	Power of teacher over pupils and undue punishment	58
75-6110	Abuse of teachers	59
75-6303	Compulsory attendance and excuse	59
75-6304	Compulsory attendance and excuse	60
75-6307	Truancy	60
80-2212	Aiding resident in leaving school -- penalty	61

10-504	Citation and procedure	42
10-505	State department of public welfare successor to bureau of child and animal protection	43
10-506	Duty of county board to investigate and report, when	43
10-507	Hearing of petition -- evidence regarding financial ability of parents -- court order -- allocation of cost	43
10-508	Hearing -- witnesses -- duty of county attorney	44
10-509	Commitment of child to children's center or other disposition	45
10-510	Committed child becomes ward of custodian	45
10-511	Punishment of parents	46
10-512	Suspension of sentence	47
10-513	Custody of child upon suspension of sentence	48
10-514	Forfeiture of bonds and termination of suspended sentence on breach of conditions	48
10-515	Actions on bonds	48
10-516	Act to be construed liberally	49
10-517	Saving clause	49
10-518	Jurisdiction of justices' courts	49
10-519	Transportation to homes without the state -- authorization-- expense	49
10-520	Foster or boarding home operator defined	50
10-521	License required	50
10-522	Issuance of license -- authority of issuing agency	50
10-523	Penalty	50
10-524	Payment for board and room of dependent and neglected children	51
10-525	Recovery from parents -- division between state and county	51

FAKE, cont'd.	
False personation and cheat	94-1801
Falsification of evidence	94-1701
FIREARMS (See Weapons)	
FISH & GAME	
All fish and game violations	RCM, Title 26
FORGERY AND COUNTERFEITING	
Possessing, passing or receiving counterfeit bills	94-2006
Possessing, receiving counterfeit money or equivalent	94-2010
Uttering forged conveyances, etc.	94-2001
FRAUD	
Confidence game	94-1806
Defrauding innkeeper	32-112 or 94-3550
Insurance fraud	94-2202
Fraudulent contract	13-307
Fraudulent conveyances	94-2101
Fraudulent marriage	48-202
Obtaining money or property under false pretenses	94-1805
GAMBLING	
Lotteries	94-3001
Obtaining money -- gambling games or tricks	94-2405
GLUE SNIFFING (See Delinquency)	
GRAND LARCENY (See Larceny)	
GUNS (See Weapons)	
HOMICIDE	
Manslaughter -- voluntary	94-2507
Manslaughter -- involuntary	94-2507
Manslaughter -- motor vehicle	94-2507

DELINQUENCY, cont'd.
Endangering health or morals 10-602
Dependent or neglect 10-500

DEPENDENT OR NEGLECT (see Delinquency)

DISTURBING THE PEACE
Excessive noise 94-3560
Fighting and quarreling 94-3560
Profanity or offensive conduct 94-3560
Other (such as annoying phone calls, etc.) 94-3560

DUELS AND CHALLENGES
Combat with weapons 94-1301

DRUGS AND NARCOTICS
Forging prescriptions 54-122
Illegal possession of dangerous drugs 54-133
Illegal sales of dangerous drugs 54-132

ESCAPE
Aiding fugitive resident of juvenile institution 80-2212
Escape from confinement 94-4205
Fugitives -- state schools 80-2211
Rescuing prisoner 94-4201

EXPLOSIVES
Careless use of explosives 69-1927
Malicious destruction of buildings using explosives 94-3304
Possession of explosives for unlawful use 69-1916
Sale of explosives for wrongful use 94-35-184
Explosives used while fishing 26-325

EXTORTION
Blackmail 94-1609
Other

FAKE
Faker 94-1821

94-305	Disposing of child for mendicant business	61
94-3579	Firearms -- use of by children under the age of fourteen years prohibited	61
94-35-106	Intoxicating liquors -- penalty for giving or selling to any person under the age of nineteen years	61
94-35-137	Minors, admission of, to place of prostitution	62
94-35-208	Selling of tobacco to minors	62
94-4004	Penalty for permitting minors in pool or billiard hall	62
94-4101	Rape defined	62
94-4106	Lewd and lascivious acts upon children	62

G. Crime Which Only A Minor May Commit

4-512	Misrepresenting age or falsely procurring or altering identification card	63
94-35-106.2	Possession of beer or liquor by minor -- misdemeanor	63

H. Miscellaneous

61-112.1	Destruction of property by person under eighteen -- liability of parents for	63
61-112.2	Limitation of amount of recovery	64
94-4120	Child under age of sixteen cannot be accomplice	64

Preface

This handbook is designed for the use of probation officers, law enforcement officials, judicial officers, and others who have an interest in the administration of the justice to juveniles. It has two primary purposes. First, to provide a brief explanation, in lay language, of the Montana juvenile court law. Second, to provide a convenient compilation of the statutes concerning juvenile delinquency and child welfare for ready reference.

Accordingly, the handbook has been divided into two parts. The first section is an explanation of the two principal chapters of the Revised Codes concerning juvenile delinquency, the Juvenile Court Act, and the Interstate Compact on Juveniles. A brief history of the juvenile court and an explanation of the United States Supreme Court case, In Re Gault are also included. The second section contains the complete statutory text of these acts and, in addition, the neglected and dependent child provisions, the child abuse and truancy laws, and the crimes which may be committed against juveniles or which may only be committed by juveniles.

Harold Dye
University of Montana
School of Law

PART I

NARRATIVE EXPLANATION
OF THE MONTANA JUVENILE COURT

A

Historical Background

Prior to the beginning of this century, the juvenile law breaker was treated much like an adult criminal. While most states had the common law rule that a child under seven was conclusively presumed to be incapable of criminal intent and children between seven and fourteen were rebuttably presumed to lack this intent, once it was shown that a child over seven knew and appreciated the criminality of his conduct, he was subject to the same punishment as any adult.

From the beginning of the nineteenth century there were piecemeal attempts at reform including the establishment of juvenile reformatories, public and private probation, and provisions for the separate trial and detention of juvenile offenders. However, it was not until 1899 that the first comprehensive juvenile court act was adopted in Illinois. The juvenile court concept was received with great enthusiasm by the courts and legislatures alike, and by the mid-1920's some sort of juvenile court act was in effect in every state.

Despite the many technical differences among the various acts, the central concept behind all of them was the same. This was that youthful misbehavior was basically the result of environmental factors, primarily poor home life, and that it was possible for the state to correct the situation with proper care and guidance.

To this end, juvenile court proceedings were made civil instead of criminal and entirely separated from the adult criminal process. The juvenile was to be protected by making the proceedings confidential and by not regarding an adjudication of delinquency as equivalent to a conviction of a crime. Finally, the juvenile court judge was given a broad choice of means to treat the offender according to his individual characteristics and without regard to the nature of the underlying antisocial conduct. The standard universally used, as set forth in the purpose clause of the Montana Act, was "...that the care, custody, education and discipline of the child shall approximate as nearly as may be that which should have been given it by his parents..." (Revised Codes of Montana, 1947 § 10-601).

Montana enacted its first comprehensive juvenile

court act in 1911. It was primarily based on the original Illinois act. The 1911 act was revised and re-enacted as the Juvenile Court Act of 1943, which, as amended, forms the basis of the current juvenile court law in Montana.

B

Montana Juvenile Court Law

Under the Montana law, the two principal officers of the juvenile court are the juvenile court judge and the probation officer. The juvenile court judge is the district court judge of the appropriate judicial district (¶ 10-603, RCM 1947). In multi-judge judicial districts one of the judges is usually designated to act as the juvenile court judge, but if such a judicial district encompasses more than one county, any or all of the judges may act as juvenile court judge.

The juvenile court judge appoints the chief probation officer for his judicial district. He may also appoint any number of deputy probation officers he deems necessary. The judge also sets the salary of these officers, but the salary of the chief probation officer cannot exceed $10, 200 per year and his deputies cannot be paid more than 90 percent of his salary. Probation officers serve until they are removed by the judge. (¶ 10-622)

As their title implies, probation officers administer the probation of delinquent juveniles. They may also conduct informal hearings to determine whether it is in the best interest of a child and the state to file a written petition in juvenile court charging the child with being a juvenile delinquent. Finally, they may conduct investigations of juvenile matters, if requested to do so by the juvenile court judge. In performing their official duties, probation officers possess all the powers of police officers. (¶¶ 10-605.1, 10-623).

The juvenile court judge may also appoint an advisory juvenile court committee for each county in the judicial district. The committee is composed of from three to seven reputable citizens who are willing to act without compensation and is to advise the judge on any matter pertaining to the juvenile court. The committee may also be asked to oversee the detention and foster home facilities in the county. (¶10-628).

The District Court has exclusive original jurisdiction over all offenses committed by juveniles, except traffic offenses, and over children who are otherwise delinquent but who have not committed an act which would be criminal if committed by an adult. When the court is sitting on a juvenile matter, it is called the juvenile court. The justice of the peace and police courts have concurrent jurisdiction with the district court over traffic offenses committed by juveniles. (¶10-603).

A child is delinquent under the Montana statute if he violates any law of the state, including traffic regulations, or any ordinance of a city or if he is uncontrollable by his parent or guardian, is habitually truant or "so deports himself as to injure or endanger the morals or the health of himself or others." (¶10-602). A "child" is a person under eighteen years of age, but the juvenile court has jurisdiction over persons between eighteen and twenty-one who have committed a criminal offense prior to having become eighteen, and retains jurisdiction over children who have been adjudicated delinquent until they become twenty-one, unless they have been committed to a state institution or agency or discharged by the court. (¶10-603).

Under Montana law a peace officer has the right to take a child into custody if he believes on reasonable grounds that the child has engaged in delinquent conduct or if his surroundings are such as to endanger his health, welfare, or morals. After the child is taken into custody, the officer may release him to his parents or other persons who have custody over the child on their written promise to bring the child before the juvenile court or probation officer at a specified time and place, or he may retain the child in custody. If the child is retained in custody, he must be brought before the juvenile court judge or probation officer without undue delay, and must be confined in a place which is approved by the juvenile court and completely separate from adult offenders. Male and female offenders must also be kept apart. (¶¶ 10-608.1 10-626).

After a peace officer, or any other person, has informed the court of the child's delinquent conduct, an informal preliminary inquiry is usually held to determine whether the best interests of the child or the public require that further action be taken. In this inquiry, the child is brought before

either the juvenile court judge or the probation officer by a citation, if necessary. The matter may be settled by an "informal adjustment," including placing the child on probation, or the judge may direct the county attorney to file a petition charging the child with being a juvenile delinquent. (¶10-605.1). The court may also commit the child to a reception and evaluation center for up to 45 days or order a physical or mental examination. (¶10-611.1).

The petition is to be prepared and signed by the county attorney and must contain a brief recital of the alleged delinquent conduct. (¶10-605.1). After it is filed, the child and his parents, or the person having custody of him, are then cited into court unless they voluntarily appear. (¶10-606).

The citation must contain a brief recitation of the substance of the petition and direct the persons cited to bring the child personally before the court at a stated place and time. If the person cited is other that the child's parent, they must be notified of the time and place for the hearing also. The judge may also cite in any other person whose presence he deems necessary. (¶10-606).

The service of the citation of notice is usually made by personal service. However, it may also be made by registered mail or publication, if necessary. Also, if necessary, the court may order the arrest of the child, the person having custody of him, or both. The citation is effective to confer jurisdiction if it gives at least twenty-four hours notice of the hearing. (¶10-607).

The hearing itself is to be held in an informal manner and completely separate from the trials of adult offenders. (¶10-611). The juvenile has the right to be represented by counsel and to demand a jury trial; but if he does not exercise these rights, they are waived. (¶10-604.1).

The court records of the hearing are confidential and are not open to public inspection without a court order. At the hearing itself, the general public is excluded and no publicity is to be given the matter. If however, the petition charges the commission of a felony, persons having a direct interest in the proceeding, including representatives of the public information media, may be admitted. (¶10-633).

If at the hearing the child is found to be delinquent, the juvenile court judge has a broad choice of orders which he may make, depending on what is in the best interests of the

child and the state. For example, he may place the child on probation or commit him to a public or private institution or to the custody of the State Department of Institutions. In addition, he may make orders for the further care and treatment of the child as is in its best interests, including an order that his parents or the county provide medical care for him. (¶10-625). Unless the child is committed to a state institution or the Department of Institutions, the court retains jurisdiction over him until he is twenty-one and may modify the judgement entered at any time. (¶10-613).

The law expressly provides that an adjudication of delinquency is not a conviction of crime. Accordingly, such an adjudication does not operate to impose any of the civil disabilities or collateral penalties commonly associated with conviction of a crime. Nor may the disposition of the case, or any evidence given at it, be used against the child in any later case or proceeding. (¶10-611).

The law provides a special procedure whereby children sixteen or older who are charged with committing or attempting to commit the serious felonies of murder, manslaughter, first or second degree arson, first or second degree assault, robbery, burglary, carring a deadly weapon with intent to assault, and forceable rape may be tried as an adult. The juvenile court judge will first hold a preliminary hearing to determine whether there is probable cause to believe that the juvenile has committed the felony, and whether, under the circumstances, it is in the best interests of the state that the child be tried as an adult. If the child is bound over to district court, he is then tried in exactly the same manner as an adult offender. However, if he is convicted and sentenced to the state prison, his commitment is automatically to the State Department of Institutions to be placed in whatever institution seems most appropriate to that agency. (¶10-603).

As was stated above, the district court and justice of the peace and police courts have concurrent jurisdiction over juvenile traffic offenders. If, after a hearing before any of these courts, the juvenile is found guilty of committing a traffic offense, the court may either impose a fine of up to $50, suspend or revoke the juvenile's driver's license, or order the vehicle the juvenile was operating impounded for up to 60 days if the juvenile owned the vehicle or if he was operating it with the owner's consent. (¶32-21-163)

The law expressly provides that the child cannot be imprisoned for nonpayment of the fine. However, the court may order that any vehicle owned or operated by the juvenile with the consent of the owner, be impounded until the fine is paid. The court may also order that the child's driver's license be held by the probation officer until the fine is paid.

In addition, if the child has committed the offenses of reckless driving or driving while intoxicated or commits any other driving infraction under circumstances which show him to be lacking in parental supervision or having a disrespect for the traffic laws of the state, the juvenile court may take action against him as it does against any other delinquent child.

C.

Interstate Compact on Juveniles

Another important area of juvenile law is the Interstate Compact on Juveniles. (¶10-1001). The Compact is in effect a contract between several states concerning areas of mutual interest in juvenile court law. These are: (1) the cooperative supervision of delinquent juveniles on probation or parole, (2) the return of delinquent juveniles who have escaped from a reformatory or abscounded from probation or parole, (3) the return of nondelinquent juveniles who have run away, and (4) providing a means whereby any of the states may cooperate in the care, treatment, and rehabilitation of delinquent juveniles.

The Compact is administered in each of the states who are parties to it by a "compact administrator." In Montana, the administrator is appointed by the governor and serves at his pleasure. (¶10-1002). The duties of the administrator are basically to cooperate with the administrators of other states and the various agency and department heads in Montana to see that the purposes of the act are carried out. Acting jointly with other administrators of other states, he may issue rules and regulations concerning the Compact and may also enter into any supplementary agreements authorized by the Compact if he has the approval of the head of the department or agency concerned. (¶10-1003). Finally, he may make or arrange for payments of any financial obligations imposed by the Compact

or any supplemental agreement, subject to the approval of the state controller. (§10-1004).

The purpose of the cooperative supervision provisions are to provide a means whereby a delinquent child may move from state to state while still being subject of the conditions of his probation or parole. (§10-1001 Art. VII).

Under the Compact, the juvenile court authorities of the state where the juvenile is on probation or parole may permit him to move to any other state which is a party to the Compact. They must first notify the other state and allow its officials a reasonable opportunity to make investigation. They must also transmit copies of the juvenile's court record, case worker studies, and any other information which might be of use to the receiving state.

Once these procedures are completed, the receiving state is obligated to accept supervision of the child if either of his parents or his guardian resides in or is moving to the receiving state. The receiving state may also accept supervision of a delinquent juvenile whose parents or guardian do not reside in that state, but it does not have to do so. In supervising these juveniles on parole or probation, the receiving state is to be governed by the same standards which it uses on its own delinquent juveniles who are released on parole or probation. (§10-1001 Art. VII).

The Compact also provides a means whereby the state which placed the juvenile on parole or probation can retake him. To do this, the appropriate officials of both states must first consult as to the necessity and desirability of retaking the juvenile. After such a consultation, an official of the sending state may enter the receiving state and apprehend the juvenile. To do this, he need not prove any more than his authority and the identity of the juvenile. It is expressly provided in the Compact that the decision of the sending state to retake the juvenile is not reviewable in the courts of the receiving state.

However, if a criminal or juvenile delinquency proceeding is pending or contemplated against the juvenile in the receiving state or if the child is suspected of committing a criminal offense or act of juvenile delinquency, he may not be returned, without the consent of the receiving state, until he is discharged from prosecution, detention, or supervision growing out of such acts.

The procedure for the return of nondelinquent runaways and escapees and abscounders from parole or probation is quite similar. In all of these, the medium for the return is the requisition, or formal demand, made on the state to which the juvenile has fled, demanding his return. The requisition must state the facts underlying its issuance and this must be verified by affidavit. One copy is to be sent to the compact administrator of the demanding state for his records.

In the case of nondelinquent runaways, (¶10-1001 Art IV). the parents or guardian of the juvenile must first petition the court to issue a requisition. The petition must state, among other things, the circumstances of the child's running away and that he is not an emancipated minor. The petition must be accompanied by two certified copies of legal documents which give the petitioner custody of the child, such as birth certificates, letters of guardianship, or custody decrees. The court may hold a hearing on the matter before issuing a requisition, but does not have to do so. If a proceeding is pending against the child, the court may issue the requisition on its own.

In the case of juveniles who have escaped from custody or absconded from parole or probation, (¶10-1001 Art. V). the procedure is considerably less formal. The probation officer or director of the institution which had jurisdiction over the juvenile may issue a requisition for his return on his own. The requisition must, of course, state that the juvenile was adjudicated delinquent and that he had escaped or absconded. This must be verified by affidavit.

In any case, once the juvenile is apprehended, he must be taken before a judge who must inform him of the demand for his return. The judge may then turn the child over to the authorities of the demanding state, or he may appoint counsel or a guardian ad litum and hold a hearing to test the legality of the proceeding.

If juvenile probation or law enforcement officials have reasonable grounds to believe that a person is a runaway, escapee, or absconder, they may take him into custody without a requisition or warrant. However, the child must be brought before a judge as soon as possible. The judge must then determine, after a hearing, whether there is sufficient cause to hold the child as a runaway, escapee, or absconder,

and may appoint counsel or a guardian ad litum to assist the child. If the court determines that the child is a runaway, escapee, or absconder, he may be held for up to ninety days to await a requisition. (¶10-1001 Art. IV).

However, a juvenile apprehended under these circumstances may consent to his immediate return home. Before the juvenile can give this consent, his rights under the Compact must be explained to him by the judge and he must sign a written consent to be returned. If a guardian ad litum or a lawyer has been appointed to represent the child, he must be present when the child is advised of his rights and must also sign the consent. (10-1001 Art. VI).

As in the case of a juvenile on parole or probation whose supervision has been transferred between party states, a runaway, escapee, or absconder may not be returned if any criminal or juvenile delinquency charge is pending or contemplated against him until he is released from detention and supervision or the charges against him are dismissed.

The Compact also provides that two or more states who are parties to it may enter into a supplemental agreement for the cooperative care, treatment, and rehabilitation of delinquent juveniles, such as operating a common juvenile reformatory. (¶10-1001 Art. X). In Montana, the compact administrator may enter into a supplemental agreement for these purposes, but it is ineffective until it is approved by the head of the department or agency who is affected by the agreement.

The Compact expressly provides that no supplementary agreement may be entered into without providing certain safeguards for the juveniles concerned. Among these are that the child must be given a court hearing, and the consent of his parents must be obtained before he can be transferred to another jurisdiction. It is also to be provided that the sending state at all times retains jurisdiction over the child, and it may inspect the institutions of the other state.

D.

In Re. Gault

No discussion of juvenile court law would be complete without at least a brief mention of the landmark United States Supreme Court case In Re Gault. In the Gault case the Court

PART II

SELECTED PROVISIONS OF THE REVISED CODES OF MONTANA DEALING WITH JUVENILES

held that under the Fourteenth Amendment to the United States Constitution a juvenile charged with being a delinquent has the fundamental rights of (1) notice of the charges against him and an opportunity to prepare a defense, (2) representation by counsel, appointed at state expense if necessary, (3) confrontation by his accusers, and (4) the privilege not to incriminate himself, if he may be subject to the confinement in an institution as a result of the proceeding.

While a detailed analysis of the meaning of the Gault decision is beyond the scope of this handbook, what it says, in effect, is that juvenile law enforcement officers may not use the fact that juvenile court proceedings are intended to benefit the child to justify adjudicating him a delinquent in a kangaroo court atmosphere. The spirit of that decision requires that the probation officer and juvenile court judge give a juvenile the benefit of all the procedural safeguards which an adult defendant has. The charges against him and his rights not to say anything and to have a lawyer should be explained to him. He should be given copy of the petition charging him with being a delinquent and should only be adjudicated a delinquent on the testimony of witnesses, not on reports or hearsay evidence.

Under the Montana juvenile court law, the Gault decision would only apply to the hearing before the juvenile court judge in which a written petition of delinquency is filed. Nevertheless, in order to safeguard the juvenile's privilege against self-incrimination, probation officers and law enforcement authorities who are dealing with juveniles should give a "Miranda warning" before questioning. This warning should inform the child that:

He does not have to say anything and that anything he may say may be used against him,

He has a right to have a lawyer present during questioning and if he cannot afford one, one will be appointed for him,

He has the right to terminate the questioning or request a lawyer at any time.

Some people have claimed that the Gault decision has destroyed the juvenile court concept. But all that decision says is that a child charged with being a delinquent, as a citizen, has the same rights and privileges as any adult. While he may be given more, he is entitled to no less.

A. JUVENILE COURTS

Title 10, Chapter 6
"Juvenile Courts and Proceedings Against Juvenile Delinquents"

10-601. Construction and purpose of the act. This act shall be liberally construed, to the end that its purpose may be carried out, to wit: that the care, custody, education, and discipline of the child shall approximate, as nearly as may be, that which should be given the child by its parents, and that, as far as practicable, any delinquent child shall be treated, not as a criminal, but as misdirected and misguided, and needing aid, encouragement, help and assistance.

And that, as far as practicable, in proper cases, that the parents or guardians of such child may be compelled to perform their moral and legal duty in the interest of the child.

The principle is hereby recognized that children under the jurisdiction of the court are wards of the state, subject to the discipline and entitled to the protection of the state, which may intervene to safeguard them from neglect or injury and to enforce the legal obligation due to them and from them.

10-602. Definitions. (1) Whenever the words "the court" are used in this act, they mean the juvenile department of the district court as established by this act. Whenever the district court is meant, it is referred to as the district court.

The word "child" means a person less than eighteen years of age.

The word "adult" means a person eighteen years of age or older.

The singular shall be construed to include the plural, and the plural the singular, and the masculine the feminine, when consistent with the intent of this act.

(2) The words "delinquent child" include:

(a) A child who has violated any ordinance of any city.

(b) A child who has violated any law of the state.

(c) A child who by reason of being wayward or habitually disobedient is uncontrolled by his parent, guardian or custodian.

(d) A child who is habitually truant from school or home.

(e) A child who habitually so deports himself as to

injure or endanger the morals or the health of himself or others.

(f) A child who unlawfully, negligently, dangerously, or willfully operates a motor vehicle on the highways of the state or on the roads and streets of any county or city so as to endanger life or property, and a child who operates a motor vehicle on such highways, roads or streets while intoxicated or under the influence of intoxicating liquor, or any other driving infractions that show the child to be lacking parental supervision or a disrespect for the traffic laws of this state.

10-603. Jurisdiction. The district courts of the several counties of this state shall have jurisdiction in all cases coming within the terms and provisions of this act. It is provided that the district court shall be called the juvenile court when acting under the juvenile court laws.

The juvenile court shall have exclusive original jurisdiction in proceedings:

(a) concerning any child who is delinquent;

(b) concerning any person under twenty-one (21) years of age charged with having violated any law of the state or ordinance of any city or town prior to having become eighteen (18) years of age.

In traffic matters involving persons under twenty-one (21) years of age justice of the peace and police courts or such other courts as are designated by the legislature shall have concurrent jurisdiction as provided in section 32-21-163-R. C. M. 1947.

(c) when the juvenile court has jurisdiction of any child sixteen (16) years of age, or over, who is accused of committing or the attempt to commit murder, manslaughter, arson in the first or second degree, assault in the first or second degree, robbery, burglary, and carrying a deadly weapon with intent to assault, or who commits rape under the circumstances specified in subdivisions 3 and 4 of section 94-4101, R. C. M. 1947, then the county attorney may request the juvenile court to be permitted to file an information against the juvenile in district court, or, when the facts warrant, the juvenile judge may order the county attorney to proceed against the juvenile in district court on an information.

Before making such an order the juvenile judge must hear the matter by an informal preliminary hearing to

determine first, if there is probable cause to believe the juvenile has committed the felony, and second, to determine whether under the circumstances it appears necessary for the best interest of the state that the juvenile be held to answer the information in district court.

After the information is filed in district court that court shall have full jurisdiction to proceed against the juvenile and shall proceed against him in the same manner as if he were an adult.

If the juvenile is found guilty in district court and is sentenced to the state prison, his commitment shall be to the department of institutions to be by them confined in whatever institution to them seems most proper;

(d) when jurisdiction shall have been obtained by the juvenile court in the case of any child, such jurisdiction shall continue until the child becomes twenty-one (21) years of age unless the child is ordered committed to a state custodial or correctional institution or to the state department of institutions;

(e) the county where a child is a resident shall have primary jurisdiction over any child charged with being a juvenile delinquent and the juvenile court of that county shall assume the handling of the cause. In the case of a juvenile sixteen (16) years of age or over who is accused of one of the serious offenses listed in subsection (c) of this section, the juvenile courts in the county where the offense occurred shall serve as the preliminary hearing court and if the juvenile is to be tried in the district court the charge shall be filed and the trial held in the district court of the county where the offense occurred, otherwise the matter shall be transferred to the county where the child is a resident.

10-604.1 Right to jury trial--drawing the jury. The juvenile in any case to be heard on a written petition charging delinquency shall have the right to demand a jury trial and shall have the right to be represented by counsel. The rights are deemed waived if not exercised. When a jury trial is required in a juvenile case, it may be held before the regular trial panel. However, if the regular panel is not in attendance, the court may draw a jury from jury box No. 3. Jury trials demanded in juvenile courts shall be granted as soon as possible.

10-605.1 Preliminary inquiry--disposition--petition. (1) Whenever any person informs the court that a child is a delinquent as defined in this act the court shall cause, by citation or otherwise, the child to be brought before the court or the juvenile probation officer for the purpose of making a preliminary inquiry to determine whether the interests of the child or the public require that further action be taken. The matter may be handled by an informal adjustment including the placing of the child on probation, or the court may order the county attorney to file a petition charging the child with being a juvenile delinquent.

(2) If a petition is filed, the proceeding shall be entitled, "In the matter of _____, a child under eighteen (18) years of age." Any record made on any juvenile matter shall not be open to public examination without order of the court.

(3) The petition shall be prepared and signed by the county attorney and shall contain and brief recitation of the facts which bring the child within the provisions of this act, and, shall, include information as to parents' residence and other matters as will properly inform the court on the matter.

10-606. Citation--notice--custody of the child. After a petition shall have been filed and after such further investigation as the court may direct, unless the parties hereinafter named shall voluntarily appear, the court shall issue a citation reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so cited shall be other than the parent or the guardian of the child, then the parent or guardian, or both, if in the county, shall also be notified of the pendency of the case and of the time and place appointed, by personal service before the hearing except as hereinafter provided. Citation may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

10-607. Service of citation. (1) Written petition. Service of citation shall be made personally by the delivery of copies thereof to the person cited; provided that if the judge is satisfied that it is impracticable to serve personally such

citation or the notice provided in the preceding section, he may order service by registered mail to their last known address, or by the publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if service is effected at least twenty-four (24) hours before the time fixed in the citation for the return thereof.

Service of citation, process or notice required by this act may be made by any suitable person under the direction of the court.

(2) Citation for an informal hearing may order the child brought before the court immediately or at any time set by the court. The citation may command the child to be brought before the court immediately in which case it must be directed to a peace officer and must be handled like a warrant of arrest.

10-608. Failure to obey citation--warrant. If any person cited as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the citation cannot be served, or the parties served fail to obey the same, or in any case where it shall be made to appear to the judge that the service will be ineffectual or the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued against the parent or guardian or against the child himself.

10-608.1 Taking child into custody--release--holding child until hearing--notification of apprehension. (1) Whenever any peace officer believes, on reasonable grounds, that any child is violating any law or ordinance or engaging in other conduct that would be grounds for finding the child a delinquent, or when the surroundings are such as to endanger his health, morals, or welfare unless immediate action is taken, then the peace officer shall take the child into custody in the same manner as for the arrest of an adult.

(2) Whenever the peace officer believes, on reasonable grounds, that the child can be released to a parent, guardian, or other person who has had custody of the child, then the peace officer may release the child to that person or persons upon receiving a written promise from him or them to bring the child before the juvenile court or the juvenile probation officer

at a time and place specified in the written promise.

(3) Whenever the peace officer believes, on reasonable grounds, that the child must be held in custody until his appearance in juvenile court, then the peace officer must deliver the child to the juvenile court or probation officer without undue delay. It it is necessary to hold the child pending appearance before the juvenile court then the child must be held in some place that has been approved by the juvenile court and completely separated from adult offenders.

(4) Whenever any peace officer has apprehended a child as hereinabove provided, he shall, as soon as practicable, notify the juvenile court or probation officer of such fact with a report of his reasons for the apprehension.

10-610. Transfer from other courts. If, during the pendency of a criminal or quasi-criminal proceeding against any person in any other court, it shall be ascertained that said person was at the time of committing the alleged offense within the definition of "delinquent child" as set out in section 10-602, R. C. M. 1947, it shall be the duty of such court to transfer such case immediately, together with all papers, documents, and testimony connected therewith, to the juvenile court. The court making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile court or to that court itself, or release such child in the custody of some suitable person, to appear before the juvenile court at a time designated. The juvenile court shall thereupon proceed to hear and dispose of such case in the same manner as if it had been instituted in that court in the first instance.

10-611. Hearing--judgment. The court may conduct the hearing in an informal manner and may adjourn the hearing from time to time. In the hearing of any juvenile case, as distinguished from a case involving a child charged with the commission of or attempt to commit any of the criminal offenses set out in subdivision (2) (b) of section 10-602, the general public shall be excluded and only such persons admitted as have a direct interest in the case; provided, however, that whenever the hearing in the juvenile court is held on a written petition charging the commission of any felony, persons having a legitimate interest in the proceeding, including responsible

representatives of public information media, shall not be excluded from such hearing. All cases involving children shall be heard separately and apart from the trial of cases against adults.

If the court shall find that the child is delinquent within the provisions of this act, it may by order duly entered proceed as follows:

(1) Place the child on probation or under supervision upon such terms as the court shall determine.

(2) Commit the child to a suitable public institution or agency, except youth forest camps; or commit the child to the department of institutions or to a suitable private institution or agency incorporated under the laws of the state, approved by the state department of public welfare, and authorized to care for children; or to place them in suitable foster homes, approved by the department of public welfare, or the probation department.

(3) In the case of such child of the age of sixteen (16) years or older who the court feels would be a suitable person for placement at a youth forest camp, the court should notify the director of the department of institutions of such finding and the director of the department of institutions should designate to the court the juvenile facility to which the child should be delivered for evaluation. The court may then commit such child to the department of institutions for a period not to exceed thirty (30) days for the purpose of evaluation as to such child's suitability for such placement, and order the child delivered for evaluation to the juvenile facility designated by the director. If, after such evaluation, the department of institutions reports to the court that such child is suitable for placement in a youth forest camp, and if there is space available at such camp, the court may then commit such child directly to the youth forest camp under the terms and conditions of the commitment provided for in this act. If, however, the department of institutions reports to the court that such child is not suitable for placement in such camp, stating the reasons therefor, he shall be returned to the court for such further disposition as the court may deem advisable under the provisions of this act. The costs of transporting such child to the designated juvenile facility for evaluation and the cost of returning the child to the court, should that become necessary, shall be borne by the county of such child's residence.

(4) Order such further case and treatment as the court may deem in the best interests of the child, except as herein otherwise provided.

No commitment of any such delinquent child to any institution under this act shall be deemed commitment to a penal institution. No adjudication upon the status of any delinquent child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any delinquent child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime in any court except as provided in the preceding section of this act. The disposition of the delinquent child or any evidence given in the court shall not be admissible as evidence against the child in any other case or proceeding.

Whenever the court shall commit a delinquent child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning such child.

Whenever a child or an adult under the age of twenty-one (21) years is convicted of a felony or felonies or attempt to commit a felony or felonies and is sentenced to imprisonment in the state prison, he shall, throughout the term of imprisonment or until such time as he reaches the age of twenty-one (21) years, have sleeping quarters separate and apart from inmates who are over the age of twenty-one (21) years, and additionally shall be kept separate and apart at other times in those areas where staff and facilities will permit.

10-611.1 Power of district court to commit child to reception and evaluation center. The district courts of this state having jurisdiction over juvenile offenses may commit a child held under its jurisdiction on a charge under which the child could be adjudged a delinquent to a reception and evaluation center for children as established by law. Such commitment shall be in sole discretion of the district judge and shall be for a period not to exceed forty-five (45) days.

10-612. Form of commitment to state juvenile facility. Whenever, under the provisions of this act, the court orders a delinquent child committed to the state vocational school for

girls, state industrial school or other state department of institutions juvenile facility, the form of commitment shall be as follows:

ORDER OF COMMITMENT

State of Montana, County of _____, ss:

In the district court for the _____judicial district.

On the _____day of _____, 19__, _____, a minor of this county, _____years of age, was brought before me charged with _____. Upon due proof I find that _____is a suitable person to be committed to _____.

It is ordered that _____be committed to_____until _____attains the age of twenty-one (21) or is sooner legally discharged or placed out.

The names, addresses and occupations of the parents are:

Name	Address	Occupation
_____	_____	_____
_____	_____	_____

The names and addresses of ther near relatives are:

_____

_____

Witness my hand this _____day of _____A. D. 19__.

_____
Judge

10-613. Modification of judgment. Any order of the court may be modified at any time, except an order committing a child to the custody of a state custodial or correctional intitution, or to the department of institutions.

10-614. Selection of custodial agency. In placing a delinquent child under any guardianship or custody other than that of its parents, the court shall, when practicable, select a person or an institution or agency governed by persons of like religious faith as that of such delinquent child, or in case of a difference in the religious faith of the parents, then of the religious faith of the delinquent child, or if the religious faith of the delinquent child is not ascertained, then of either of the parents.

10-615. Support of delinquent child committed to a custodial agency. When a delinquent child is committed by the court to custody other than that of its parents, and no provision is otherwise made by law for the support of such delinquent child, compensation for the care of such delinquent child, when approved by order of the court, shall be a charge upon the county, or the appropriate division thereof. But the court may, after giving the parent a reasonable opportunity to be heard, adjudge and order that such parent shall pay in such manner as the court may direct, such sum as will cover, in whole or in part, the support of such delinquent child, and if such parent shall willfully fail or refuse to pay such sum, he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence, or said cost may be collected in a civil action against the parent or parents.

10-616. Support of dependents. In any delinquency hearing where it appears that the child's parents are liable for desertion, abandonment, or failure to provide subsistence or care for such child the court may issue a citation or other necessary process to compel the attendance of the child's parents or any other necessary person. If such parent is found guilty of desertion, abandonment, or failure to provide subsistence or care for any person for whose maintenance or care such adult is legally responsible, the court may inquire into and determine his ability to provide for maintenance or care of such person and may direct when, how, and where money for such maintenance or care shall be paid; and in the event that such adult shall willfully and without just excuse, fails or refuses to pay the same in accordance with the court's order, said person shall be dealt with in accordance with the provisions of law relating to desertion or failure to provide subsistence, or such adult may be proceeded against for contempt of court.

10-617. Penalty for improper and negligent training of children. Any parent or parents, legal guardian, or any other person who shall encourage, willfully cause or contribute to, or through negligence in the care, custody, guidance, education, maintenance, or direction of any child under eighteen years of age, cause or permit such child to violate any law of this state, or the ordinance or ordinances of any city of this state, or to be or become incorrigible, or to knowingly associate with

thieves, vicious or immoral persons; or to grow up in idleness or crime, or to knowingly enter a house of prostitution; or to knowingly visit or patronize any place, house, or apartment building where any gambling device is or gambling devices are or shall be operated or run, or where any gambling is done or conducted, or to patronize or visit any saloon or saloons, or dramshop or dramshops, where intoxicating liquors are sold, or to wander about the streets of any town or city in the nighttime, without being on lawful business or occupation, or to habitually wander about or visit any railroads or tracks, or to jump to hook on to any moving train or to enter any car or engines without lawful authority; to use habitually any vile, obscene, vulgar, profane or indecent language, or to be guilty of immoral conduct in any public place, or about any schoolhouse or grounds, or keep or permit it in or about any saloon or place where spirituous liquors or intoxicating liquors are sold, or in any gambling house or place where gambling is practiced, or in a house of ill fame or prostitution; or to become addicted to the use of spirituous and intoxicating liquors not for medical purposes prescribed by a physician; shall be guilty of a misdemeanor and upon trial and conviction thereof shall be fined in a sum not less than ten dollars ($10.00) and not to exceed one thousand dollars ($1,000.00), or imprisonment in the county jail for a period not exceeding nine (9) months, or by both such fine and imprisonment.

10-621. Designation of judge. In districts where there are more than one judge, one of the judges shall be designated to act as the judge who shall hear all proceedings under this act; provided that in districts where judges are required to travel from one county to another, either of the judges may act.

10-622. Probation officers--appointments--removal--salaries. In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one (1) discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Preference in appointment shall be given to any person who possesses the following qualifications:

(1) a bachelor's degree from an accredited college or

university in the behavioral sciences, or

(2) a bachelor's degree from an accredited college or university in some subject other than the behavioral sciences, and three (3) years of experience in work of a nature related to the duties of the probation department as set forth in section 10-623.

Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to exceed ten thousand two hundred dollars ($10, 200) or on a per diem basis at the rate of forty dollars ($40. 00) per day for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one (1) county, his salary shall be paid by that county.

The judge having jurisdiction of juvenile matters may also appoint such additional persons giving preference to persons having the qualifications suggested for appointment as the chief probation officer to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment provided that such salaries shall not exceed ninety per cent (90%) of the salary of the chief probation officer.

For all necessary travel incident to his official duties in connection with the investigation, supervision, and transportation of children, the probation officer shall, in addition to his office salary, be reimbursed for actual expenses incurred.

10-623. Duties and powers of the probation department. The chief probation officer, under the direction of the judge, shall have charge of the work of the probation department. The probation department shall make such investigation as the juvenile court may direct, keep a written record of such investigations and submit the same to the judge, or deal with the same as the judge may direct. The department shall furnish to any delinquent child placed on probation to to any parent or guardian of such child a written statement of the conditions of probation, and shall keep informed concerning the conduct and condition of each person under its supervision.

and shall report thereon to the judge as he may direct. Each probation officer shall use all suitable methods to aid persons on probation and bring about improvement in their conduct and condition. The probation department shall keep full records of its work, and shall keep accurate and complete accounts of money collected persons under its supervision, and shall give receipts therefor and shall make reports thereupon as the judge may direct. Probation officers, for the purpose of this act, shall have the powers of police officers.

All information obtained in discharge of official duty by any officer or other employee of the juvenile court shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this act to receive such information, unless and until otherwise ordered by the judge.

10-624. Bond of the chief probation officer. In each judicial district or county having a chief probation officer, such officer shall be required to furnish to the state of Montana a bond in the sum of one thousand dollars ($1000.00) for the faithful performance of his duties.

10-625. Physical and mental examinations and treatment. The court may cause any person coming under its jurisdiction to be examined by a physician, psychiatrist (or psychologist), appointed by the court.

Whenever a child, concerning whom a petition has been filed, appears to be in need of medical or surgical care, the court may order the parent, guardian or custodian to provide treatment for such child in a hospital or otherwise. If such parent, guardian, or custodian fails to provide such treatment, the court may, after due notice, enter an order therefor, and expense thereof, when approved by the court, shall be a charge upon the county; but the court may adjudge that the person or persons having the duty under the law to support such child pay part or all of the expenses of such treatment.

10-626. Place of detention. Whenever it is necessary for any peace officer to detain any child under eighteen (18) years of age, or, whenever by order of the court or the chief probation officer it is necessary to detain any such child, then such child shall be detained in a room or ward which has been approved by the juvenile court judge. Such room or ward must

assure that children are kept separated by sex and that they are not permitted to associate in any way with adults who are also being confined to the same building or area.

10-627. Foster homes--youth homes. In each county the chief probation officer with the approval of the judge, shall select a number of family homes, to be known as foster homes, where delinquent children may be placed permanently or temporarily while disposition is being made. It shall be the duty of the county commissioners to provide funds for payment of such foster parents at a rate of be determined by the court judge.

In all counties the county commissioners may provide by purchase, lease, or otherwise, a place to known as the youth home, which shall not be used for the confinement of adult persons charged with criminal offenses, where delinquent children may be detained until final disposition, which place shall be maintained by the county as in other like cases. The judge having jurisdiction may appoint a superintendent and a matron, who shall have charge of said home and of the children detained therein.

Such superintendent and matron shall be a suitable and discreet person, qualified as a teacher of children. Such home shall be furnished in a comfortable manner, as nearly as may be as a family home. The compensation of such superintendent and matron shall be fixed by the court, and such compensation and the maintaining of such home shall be paid out of the county treasury.

10-628. Juvenile court committee. In every county of the state the judge having jurisdiction may appoint a committee, willing to act without compensation, composed of not less than three(3) nor more than seven(7) reputable citizens, which shall be designated as a juvenile court committee; this committee shall be subject to the call of the judge to meet and confer with him on all matters pertaining to the juvenile department of the court, and shall act as a supervisory committee of detention homes, and in the selection of foster homes.

10-629. County attorney to prosecute. It shall be the duty of the county attorney to assist the probation officer or

other person acting in that capacity in investigating all complaints under this act, and to prosecute all persons charged with violating any of the provisions of this act, when requested by the court.

10-630. Appeals. In the case of a delinquent child an appeal to the supreme court may be taken by the child or an aggrieved party in the manner provided by law or by rule of court for appeal in civil cases. In any case charging an adult with contributing to the delinquency of a child, an appeal may be taken to the supreme court in the manner provided by law or by rule of court for appeal in criminal cases. In any other case against an adult coming under this act, an appeal may be taken to the supreme court in the manner provided by law or by rule of court for appeal in civil cases. An appeal, in the case of a delinquent child, shall not suspend the order of the court, nor shall it discharge the delinquent child from the custody of that court or of the person, institution or agency to whose care such delinquent child shall have been committed unless that court shall so order.

On appeal the supreme court shall review the matter and may make such order as appears proper, including any necessary modification of the district court order.

10-631. County commissioners authorized to provide funds. The county commissioners of all counties are hereby authorized, empowered, and required to provide the necessary funds and to make all needful appropriations to carry out the provisions of this act.

10-633. Publicity forbidden. No publicity shall be given to the identity of an arrested juvenile or to any matter or proceeding in the juvenile court involving children proceeded against as, or found to be, delinquent children except where a hearing or proceeding is had in the juvenile court on a written petition charging the commission of any felony.

80-1416. Detention of child who violates aftercare--delivery on request to aftercare division. A child who violates the terms and conditions of his or her aftercare agreement may be detained, day or night, by the department of institutions or by any law officer of the state of Montana or any county

or city of the state of Montana, upon certificates in writing to such officer by the director of the aftercare division of the department of institutions or any aftercare counselor of the department of institutions to the effect that such child has violated the terms and conditions of his aftercare agreement. Upon detention by a law officer of the state of Montana as hereinbefore provided, such child shall on request be delivered to the custody of the aftercare division of the department of institutions who may:

(1) return such child to one of the juvenile facilities of the state of Montana, or

(2) continue such child under the supervision of the aftercare division.

80-2204 Maxium age of commitment. No child shall be committed by any juvenile court to the Mountain View school, Pine Hills school or other juvenile facility who has attained the age of eighteen (18) years, except however, that any person under twenty-one (21) years who, prior to attaining the age of eighteen (18) years, came under the jurisdiction of the juvenile court by reason of delinquent conduct and whose adjudication of delinquency, including the finding that commitment to some institution was necessary is not made until after the child reaches the age of eighteen (18) years shall be committed to the department of institutions who shall then have the obligation to test and evaluate the person to determine the proper place of detention for the person who shall thereupon be confined at the institution until the person shall have attained the age of twenty-one (21) years unless sooner discharged by the department of institutions.

B.

MONTANA TRAFFIC LAWS PERTAINING TO JUVENILES

32-21-163 Unlawful operation by child under eighteen --concurrent original jurisdiction of district court and justice court--penalties--impounding of vehicle when. The district courts and the justice courts of the state of Montana and the municipal and police courts of cities and towns shall have concurrent original jurisdiction in all proceedings

concerning the unlawful operation of motor vehicles by children under the age of eighteen (18) years. Whenever, after a hearing before the court, it shall be found that a child under the age of eighteen (18) years has unlawfully operated a motor vehicle, the court may (a) impose a fine, not exceeding fifty ($50) dollars, provided such child shall not be imprisoned for failure to pay such fine, (b) may revoke the driver's license of such child, or suspend the same for such time as may be fixed by the court, and (c) may order any motor vehicle owned or operated by such child to be impounded by the probation officer for such time, not exceeding sixty (60) days, as shall be fixed by the court; provided, however, that if the court shall find that the operation of such motor vehicle was without the consent of the owner, then such vehicle shall not be impounded. Upon nonpayment of any fine herein provided for, the court may order that any motor vehicle owned by said child or operated by said child with the consent of the owner shall be impounded until the fine shall be paid, or may order that the driver's license of such child shall be taken up and held by the probation officer until payment of said fine, or may cause both said motor vehicle and said driver's license to be taken up and impounded until such fine shall be paid; but no child shall be committed to or held in any detention facility or jail by reason of nonpayment of such fine.

32-21-164. Summons--issuing to child under eighteen. Whenever any child under the age of eighteen (18) years shall unlawfully operate a motor vehicle in the presence of any peace officer of any county, city or town, or in the presence of any state highway patrolman, such officer may deliver to said child a form of summons describing the nature of the offense, with instructions thereon to report to the district court or a justice court of the county or the municipal or police court of the city or town wherein the offense occurs; and the court shall be informed thereof by the delivery of a copy of said summons to the probation officer, who shall in turn deliver the same to the judge or justice of the peace.

32-21-165. Court learning of unlawful operation by child under eighteen--authority. Whenever the court shall be informed that a child has unlawfully operated a motor vehicle said child shall be required to appear before the court and the

court shall, after a hearing and investigation, take action as provided in section 32-21-163, or may dismiss the proceeding if it be found and determined that it is for the best interests of the child so to do.

94-801-2 Traffic fines collected from juvenile offenders --disposition. All fines collected by the district courts from children under eighteen (18) years of age, for unlawful operation of motor vehicles resulting from traffic summonses issued by the peace officers of the cities, counties, or by highway patrolmen, together with that portion of the fines which is specified in section 75-5304, shall be retained by the county treasurer of the county in which the offense occurred and at the end of each month be distributed as follows:

(a) Fines collected as the result of summonses issued by city police officers shall be distributed to the city in which the police officer is employed, and credited to the city's general fund;

(b) Fines collected as the result of summonses issued by county peace officers shall be retained by the county treasurer and credited to the county road fund;

(c) Fines collected as the result of summonses issued by state highway patrolmen shall be paid to the state treasurer of Montana and by him credited to the general fund of the state;

(d) That portion of the fines, as provided for in section 75-5304, shall be paid to the state treasurer of Montana and by him credited to the automobile driver education account in the earmarked revenue fund.

C.

INTERSTATE COMPACT ON JUVENILES

Title 10, Chapter 10
"Interstate Compact on Juveniles"

10-1001. Compact ratified--text. The Interstate Compact on Juveniles as contained herein is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:
The contracting states solemnly agree that:

ARTICLE I--FINDINGS AND PURPOSES

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The co-operation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

(1) co-operative supervision of delinquent juveniles on probation or parole;

(2) the return, from one state to another, of nondelinquent juveniles who have escaped or absconded;

(3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and

(4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake co-operatively.

In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to co-operate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II--EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III--DEFINITIONS

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that

has made such adjudication or to the jurisdiction or supervision of an agency or institution pursant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV--RETURN OF RUNAWAYS

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written re-

quisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon receipt of a requisiton demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is juvenile who has run away from another state party to this compact without the consent of a parent, guardian; person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person,

subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety (90) days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense of juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V--RETURN OF ESCAPEES AND ABSCONDERS

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody of supervision,

and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agancy concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety (90) days,

as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation cost of such return.

ARTICLE VI--VOLUNTARY RETURN PROCEDURE

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisiton in another state party to this compact under the provisions of article IV (a) or of article V (a), may consent to his immediate return to the state from which he absconded, escaped, or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however,

the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII--CO-OPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian, or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(c) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII--RESPONSIBILITY FOR COSTS

(a) That the provisions of article IV (b), V (b), and VII (d) of the compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of cost, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to articles IV (b), V (b), or VII (d) of this compact.

ARTICLE IX--DETENTION PRACTICES

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X--SUPPLEMENTARY AGREEMENTS

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the co-operative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

(1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;

(2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;

(3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

(4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;

(5) provide for reasonable inspection of such institutions by the sending state;

(6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and

(7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the co-operating states.

ARTICLE XI--ACCEPTANCE OF FEDERAL AND OTHER AID

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII--COMPACT ADMINISTRATORS

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII--EXECUTION OF COMPACT

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV--RENUNCIATION

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six (6) months' notice in writing

of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six (6) months' renunciation notice of the present article.

ARTICLE XV--SEVERABILITY

That the provisions of this compact shall be serverable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

10-1002. Juvenile compact administrator. Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized empowered and directed to co-operate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

10-1003. Supplementary agreements. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of

other states pursuant to the compact. In the event that such supplementary agrement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

10-1004. Financial arrangements. The compact administrator, subject to the approval of the state controller may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

10-1005. Responsibilities of state departments, agencies, and officers. The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

10-1006. Additional procedures not precluded. In addition to any procedure provided in articles IV and VI of the compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this state and the other respective party states for the return of any such runaway juvenile.

D.

DEPENDENT AND NEGLECTED CHILDREN

Title 10, Chapter 5
"Dependent and Neglected Children"

10-501. Dependent and neglected children--definition. For the purpose of this act, the words "dependent child" or

"neglected child" shall mean any child of the age of sixteen (16) years, or under that age, who is dependent upon the public for support, and who is destitute, homeless, or dependent, or who has no proper parental care or guardianship, or who habitually begs or receives alms, or who is found living in any house of ill-fame, or in any house of prostitution, or whose home, by reason of neglect, cruelty, or depravity on the part of its parents, guardian, or other person in whose care it may be, is an unfit place for such child, or whose environment is such as to warrant the state, in the interest of the child, to assume its guardianship or support.

10-502. Jurisdiction of courts--jury trial. The district courts in the several counties in the state shall have original jurisdiction in all cases coming within the terms of this act. In all trials under this act, any person interested therein may demand a jury, or the judge of his own motion may order a jury to try the case. Any person interested in any cause under this act shall have the right to appear therein and be represented by counsel; all cases within the provisions of this act shall be known as "juvenile cases."

10-503. Applications to courts with reference to dependent or neglected children. Any officer of the state bureau of child and animal protection, or any person who is a resident of the county, having knowledge of a child in his county who appears to be a dependent or neglected child, may file with the clerk of the district court a petition in writing, setting forth the facts which constitute the child dependent or neglected, which petition shall be verified by an affidavit of the petitioner. It shall be sufficient if the affidavit is upon information and belief. The court may, upon its own motion, or on the application of any person interested, require that such petition set forth an additional information as to the parentage or relatives of such child, or the cause of its dependency, as to the court may seem necessary and proper to the ends of justice, or the proper disposition of any such case; provided, however, that when any such child, within the provisions of this act, is in immediate or apparent danger of violence or serious injury, or is apt to be removed from the jurisdiction of the court for the purpose of evading proceedings under this act for its protection, any officer of the state bureau of

child and animal protection, or any sheriff, may take immediate custody of such child without any process whatever; but, in any such case, it shall be the duty of said officer, within forty-eight (48) hours thereafter, to file a petition and proceed as herein provided for. In any such case, the court may provide for the temporary care and custody of such child pending the final hearing and disposition of such case.

10-504. Citation and procedure. Upon the filing of such petition, it it shall appear that one or both of said parents, or guardian, if there be no parent, reside in said county, the judge of said court shall issue a citation fixing the day and time of hearing of such petition, which shall be served upon one or both of said parents or guardian, if any, if either can be found in said county, not less than two (2) days before the time fixed for said hearing, requiring them to appear on said day and hour and show cause, if any, why said child should not be declared, by said court, to be a dependent or neglected child, and sent to the Montana children's center, or otherwise cared for. In case it shall appear by said petition that neither of said parents is living, or does not reside in said county, or in case one or both of said parents, or guardian in case there be no parents, shall endorse on said petition a request that the child be declared to be a dependent child, then the citation herein provided for need not be issued, and the court may thereupon proceed to the examination and hearing provided for; provided, however, that in all cases, except where the proceeding is instituted or commenced by a representative of the division of child welfare service of the state department of public welfare, a citation must be issued and served upon a representative of the division of the child welfare service of the department of public welfare of the state of Montana, either personally or by mail. It shall be the duty of the officer receiving such citation to use diligence to find and serve the same on one or both of said parents, or upon the guardian, who shall represent such child in court; and in case there is neither of these found, then the court shall appoint an officer of the division of child welfare service, or some responsible taxpayer of said county, to represent said child in court, and the court may also appoint an attorney to represent said child. In case one or both of said parents of such child appear in court, it shall by the duty of the district

judge to explain to one so appearing the effect of an order of court, sending their child to the state home or declaring it to be a dependent child. In case any dependent child is taken away from its parents or guardian under the provisions of this act, such parents or guardian shall thereafter have no right over or to the custody, service, or earnings of said child, except upon condition, in the interest of such child, as the court may impose or where, upon proper proceedings, such child may lawfully be restored to the parents or guardian.

10-505. State department of public welfare successor to bureau of child and animal protection. The state department of public welfare, being the successor to the former state bureau of child and animal protection, and being required to perform the duties performed by such bureau while the same was in existence, wherever the terms "bureau of child and animal protection" or "bureau of child protection" appear or are used in sections 10-501 to 10-519, inclusive, they shall be deemed and construed to mean the state department of public welfare.

10-506. Duty of county board to investigate and report, when. Whenever any petition is filed with the clerk of a district court in accordance with the provisions of section 10-503, and after citation has been issued as provided in section 10-504, the clerk of such court must immediately deliver to the county board of public welfare of the county in which the petition is filed, a copy of such petition with a notation thereon giving the day and time fixed by the court for hearing such petition. Upon receipt of such copy of petition it shall be the duty of some member of the staff of such county board of public welfare to make an investigation for the purpose of ascertaining whether the parents or parent, if any, of such child live within such county and the financial ability of such parents or parent, if any, to pay the cost of taking care of such child in a foster home, and must file with the clerk of such court, before the time fixed for such hearing, a written report of such investigation.

10-507. Hearing of petition--evidence regarding financial ability of parents--court order--allocation of cost. On the hearing the court may hear evidence regarding the financial

ability of any such parents or parent, to pay such cost, and may take into consideration the rerport of such investigation filed with the clerk of the court, as provided in section 10-506. And if, on such hearing, the court shall find and determine that said child has parents, or a parent, who is financially able to pay a part or the whole of such cost, and such child shall be ordered placed in a foster home, the court shall make an order requiring such parents, or parent, to pay therefor such amount as the court may deem proper.

If such child be placed in a foster home the state department of public welfare shall pay one-half (1/2) of the cost thereof, and the county in which such child resides shall pay the other one-half (1/2) thereof, and in turn shall collect in its own name from any parent or parents such amount, if any, as the court has specified in its order to be paid by such parent or parents, provided that one-half (1/2) of any amount collected by the county from a parent or parents, when a child is placed in a foster home, shall be transmitted to the state department of public welfare, and by it paid over to the state treasurer, who shall deposit the same to the credit of the state general fund.

10-508. Hearing--witnesses--duty of county attorney. On such hearing or examination, the child shall be brought before said court, whereupon it shall be the duty of said court to investigate the facts and ascertain whether said child is a dependent child, its residence, and, as far as possible, the whereabouts of the parents, guardian, or nearest adult relatives; when and how long the child has been maintained, in whole or in part, by public or private charity; the occupation of the parents, if living; whether they are supported by the public, or have abandoned their child; and to ascertain, as far as possible, if the child is found dependent, the cause thereof. The court may compel the attendance of witnesses upon such examination; and it shall be the duty of the county attorney of the county, when requested by the court, to appear in any such examination in behalf of the petitioner. It shall be the duty of the county attorney, upon the request of the court, or any petitioner, to file petitions and conduct the necessary proceeding in any case within the terms of this act. Any friend of the child may appear in its behalf.

10-509. Commitment of child to children's center or other disposition. Upon the hearing of any such case, if the said child shall be found to come within any of the provisions of section 10-501, it shall be deemed a dependent or neglected child, and an order may be entered committing it to the Montana children's center; and if said center is unable to receive said child, or if, for any other reason, it shall appear to be the best interest of said child, the court may make such disposition of said child as seems best for its social and physical welfare. The form of commitment shall be as follows:

ORDER OF COMMITMENT

State of Montana, County of _____, ss:
In the District Court for the _____judicial district.
On the ____day of _____, 19__, _____a minor of this county was charged on the petition of _____, the County Attorney of _____county, with being a dependent and neglected child under the provisions of chapter 5, Title 10, R.C.M. 1947.
Upon due proof I find that it is for the best interests of the child that he be taken from the custody of his parents, guardian, or other person having custody of him.
The names, addresses and occupations of the parents are:

Name	Address	Occupation
_____	_____	_____
_____	_____	_____

The child's guardian is _____.
The child is in the custody of _____.
It is ordered that _____be committed to_____ _____until discharged provided by law.
Witness my hand this _____day of _____A. D. 19____.

_____
Judge

10-510. Committed child becomes ward of custodian. In any case where the court shall award any dependent child to the care and custody of an association or individual, in accordance

with the provisions of this act, the child shall, unless otherwise ordered, become a ward, and be subject to the guardianship of the association or individual to whose care it is commited. Such association or individual shall, by and with the consent of the court, have authority to place such child in a suitable family home, with or without any indenture, and may, by attorney or agent, appear in any court, where adoption proceedings are pending, and assent to its adoption. Such assent shall be sufficient to authorize the court to enter the proper order or decree of adoption. The guardianship provided for herein shall not include the guardianship of any estate of the child. Any association or individual receiving the care, custody, and guardianship of any such child shall be subject to visitation or inspection by the state bureau of child and animal protection, or any officer or person appointed by the court for such purpose, and the court may, at any time, require from such association or person a report or reports containing such information or statements as to the judge may seem proper and necessary to be fully advised as to the care, maintenance, moral or physical training of the child, as well as the standing or ability of such association or individual to care for such child. The court may change the guardianship of such child, if, at any time, it is made clear to the court that the same is detrimental to the child, or unsatisfactory to the court. In providing guardianship under the terms of this act for any dependent child, the court may, as far as practicable, provide such guardianship as conforms to the religious faith of the parents of the child. If, in the opinion of the court, the causes of dependency of any child may be removed under such conditions or supervision for its care, protection, and maintenance as may be imposed by the court, so long as it may be for its best interest, the child may be permitted to remain in its own home and under the control of its own parents, parent, or guardian, subject to the jurisdiction and direction of the court, the condition imposed, and reasonable visitation of the officer or person appointed by the court for that purpose. When necessary, and when it shall appear to the court that it is no longer to the interest of such child to remain with such parent, parents, or guardian, the court may proceed with the final disposition of the case.

10-511. Punishment of parents. In all cases where any child shall be a "dependent child" or "neglected child," as defined by the statutes of this state, or by this act, the parent

or parents, guardian, or other person or persons responsible in law for its care, custody, maintenance, or support, who shall by any act cause, contribute to, or encourage such dependency, or who shall, by failing, refusing, or neglecting without legal excuse or good cause, to care for, maintain, support, guard, and protect, contribute to, cause, permit, the delinquency or neglect of such child, or who shall, by reason of failing, refusing, or neglecting to do and perform any of his or her or their legal duties or obligations to such child, cause, encourage or contribute to the neglect or to the delinquency of such child, shall be guilty of a misdemeanor, and, upon trial and conviction thereof, shall be fined in a sum not exceeding six hundred dollars ($600.00), or imprisioned in the county jail for a period not exceeding nine(9) months, or by both such fine and imprisonment.

10-512. Suspension of sentence. The court may suspend any sentence hereunder, or release any person sentenced under this act from custody, upon condition that such person shall furnish a good and sufficient bond or undertaking to the state of Montana, in such penal sum, not exceeding two thousand dollars ($2000.00), as the court shall determine, conditioned for the payment of (1) such amount as the court may order, not exceeding twenty-five dollars per month ($25.00) for each child, for the support, care, and maintenance of such child while under the guardianship or in the custody of any individual or any public, private, or state home, institution, association, or orphanage, other than an institution in the department of institutions, to which the child may have been committed or entrusted under the provisions of the law of the state concerning dependent and neglected children, or (2) the per diem charge established by the department of institutions for each child committed to the Montana children's center.

10-513. Custody of child upon suspension of sentence. The court may also suspend any sentence imposed under this act, and may permit any dependent child to remain in the custody of any such person found guilty, upon conditions to be prescribed or imposed by the court as may seem most calculated to remove the cause of such dependence or neglect, and while such conditions are accepted and complied with by any such person, such sentence may remain suspended, and

such persons shall be considered on probation in said court. In case a bond is given as provided herein, the conditions prescribed by the court may be made a part of the terms and conditions of such bond.

10-514. Forfeiture of bonds and termination of suspended sentence on breach of conditions. Upon the failure of any such person to comply with the terms and conditions of such bond, or of the conditions imposed by the court, such bond or the term of probation may be declared forfeited and terminated by the court, and the original sentence executed as though it had never been suspended, and the term of any jail sentence imposed in any such case shall commence from the date of incarceration of any such person after the forfeiture of such bond or term of probation. There shall be deducted from any such period of incarceration any part of such sentence which may have already been served.

10-515. Actions on bonds. It shall not be necessary to bring a separate suit to recover the penalty of any such bond so forfeited; but the court may cause a citation to issue to the surety or sureties thereon, requiring that he or they appear at a time named therein by the court, which time shall not be less than ten or more than twenty days from the issuance thereof, and show cause, if any there be, why judgment should not be entered for the penalty of such bond, and execution issue for the amount thereof against the property of the surety or sureties thereon, as in civil cases; and, upon failure to appear or failure to show any such sufficient cause, the court shall enter such judgment in behalf of the state of Montana against such surety or sureties. Any moneys collected or paid upon any such execution, or in any case upon said bond, shall be turned over to the county treasurer of the county in which such bond is given, to be applied to the care and maintenance of the child or children for whose dependency such conviction was had, in such manner and upon such terms as the district court may direct; provided, that if it shall not be necessary, in the opinion of the court, to use such fund, or any part thereof, for the support and maintenance of such child, the same shall be paid into the county treasury and become a part of the funds of such county.

10-516. Act to be construed liberally. This act shall be liberally construed, to the end that its purposes may be carried out, to wit: That proper guardianship may be provided for in order that the child may be educated and cared for, as far as practicable, in such manner as best subserves his moral and physical welfare, and, as far as practicable, in any proper case, that the parent, parents, or guardian of such child may be compelled to perform their moral or legal duties in the interest of the child, and in case of failure to perform said duties, that they may be properly punished therefor.

10-517. Saving clause. Nothing in this act shall be construed to repeal any portion of sections 94-301 to 94-305, or any amendments thereof; nor shall anything in this act be construed to repeal any law provided for the support by parents of their minor child, and nothing in said laws shall prevent proceedings under this act, in any proper case.

10-518. Jurisdiction of justices' courts. Whenever the district court in and for any county of this state is not in session, a sworn complaint may be filed before any justice of the peace, or police magistrate, in said county, against any person for a violation of any of the provisions of this act, and in case any person is arrested and brought before such justice of the peace, or police magistrate, he shall have jurisdiction as an examining and committing magistrate only, and the proceedings before such justice of the peace, or police magistrate, shall be such as are prescribed in sections 94-6101 to 94-6125, as far as consistent with the purposes of this act; but no child held by said justice or magistrate pending a hearing, or committed by him after hearing to await the action of the district court, shall be confined in a common jail or locked up, but such child shall be cared for and held in the same manner as is provided for the care and custody of such child or children in cases pending before a district court, and the justice or magistrate shall be empowered to make the proper orders in such cases provided.

10-519. Transportation to homes without the state--authorization--expense. The bureau of child protection is authorized to transport to proper homes without the state when such homes are offered minor orphans, half orphans,

abandoned children or children of a father who is incapacitated for gainful work by permanent physical disability, who does not have an income sufficient to care for his children, or who is a patient in a sanitarium, or other institution by reason of a tubercular condition; provided, that the county from which the children are removed shall pay one-half (1/2) of the total expense necessarily incurred by the state in effecting such transportation.

10-520. Foster or boarding home operator defined. Any person owning or operating a home or institution into which home or institution he takes any child or children for the purpose of caring for them and maintaining them and for which care and maintenance he receives money or other consideration of value and which child is neither his son, daughter, ward, nor related to him by blood, shall be deemed to be an "operator" of a "foster home or boarding home" within the meaning of this act, except that this act shall not apply when any person accepts such care and custody of such child on a temporary basis and simply as a temporary accommodation for the parent or parents, guardian or relative of such child. The word "person" where used in this act, shall include any individual, partnership, voluntary association or corporation.

10-521. License required. No person shall maintain or operate a foster or boarding home for any child or children within the meaning of this act without first securing a license in writing from the division of child welfare services of the state department of public welfare. No fee shall be charged for such license.

10-522. Issuance of license--authority of issuing agency. The division of child welfare services of the state department of public welfare is hereby authorized to issue licenses to persons conducting boarding or foster homes and to prescribe the conditions upon which such licenses shall be issued, and making such rules and regulations as it may deem advisable for the operation and regulation of foster and boarding homes for minor children consistent with the welfare of such children. Such licensing agency shall have the power and authority to inspect all such licensed foster and

boarding homes through its duly authorized representatives and to cancel licenses theretofore issued for the failure to observe such rules and regulations. The person operating such homes shall give to such representative such information as may be required and afford them every reasonable facility for observing the operation of such homes.

10-523. Penalty. Any person who maintains or conducts a foster or boarding home, or assists in conducting or maintaining such home without having first obtained a license in writing as hereto provided, shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed one hundred dollars ($100.00).

10-524. Payment for board, clothing, personal needs, and room of dependent and neglected children--reimbursement by county. Whenever agreements are entered into by the department of public welfare for placing dependent and neglected children in approved family foster homes or licensed private institutions, it shall be the duty of the state department to pay by its check or draft, each month, from any funds appropriated for that purpose, the entire amount agreed upon for board, clothing, personal needs, and room of such children.

On or before the twentieth of each month the state department shall present a claim to the county of residence of such children for one-half(1/2) the payments so made during the month. The county must make reimbursement to the state department within twenty (20) days after such claim is presented.

10-525. Recovery from parents--division between state and county. In the event any recovery is made from the parent or parents of children for whom board, clothing, personal needs and room has been paid by the state and county any amount so recovered shall be divided equally between the state department and the county of residence of such child or children.

E.

REPORTS OF CHILD NEGLECT OR ABUSE

Title 10, Chapter 9
"Reports of Child Neglect or Abuse"

10-901. Declaration of policy. It is the policy of this state to provide for the protection of children who have had physical injury or willful neglect inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of those responsible for their care and protection.

10-902. Reports. Any licensed physician and surgeon, resident or intern, who examines, attends or treats a child under the age of eighteen (18) years, or any registered nurse, practical nurse, any visiting nurse, any schoolteacher, or any social worker acting in his or her official capacity, having reason to believe that such child has had serious injury or injuries inflicted upon him or her as a result of abuse of neglect, or has been willfully neglected, shall report the matter promptly to the county attorney in the county where such examination is made or such child is located; provided that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution, such staff member shall immediately notify the superintendent, manager, or other person in charge of the institution who shall make the report forthwith. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as it conveniently may be after it is initially made by telephone or otherwise, and it shall contain the names and addresses of the child and his or her parents or other persons responsible for his or her care; to the extent known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible therefor, and the facts which led the person reporting to believe that the child has suffered injury or injuries, or willful neglect, within the meaning of this act.

10-903. Action on reporting. If from said report it shall appear that the child suffered such injury or injuries or willful neglect in the county in which the examination was made, the county attorney receiving the report shall immediately cause to be made the investigation hereinbelow referred to. If from such report it shall appear that the child suffered such injury or injuries or willful neglect in a county other than that in which the examination was made, the county attorney receiving the report shall forthwith transmit such report to the county attorney of the county in which it appears such injury or injuries or willful neglect were suffered, and the county attorney of the latter county shall immediately cause to be made the investigation herein referred to. In making such investigation of the report, the county attorney may utilize the services of the county welfare department and all other departments of his county. The investigation shall be made into the home of the child involved and into the circumstances surrounding the injury of the child, and into all other matters which, in the discretion of the county attorney shall be relevant and material to said investigation.

10-904. Immunity from liability. Anyone participating in the making of a report pursuant to the provisions of this act or participating in judicial proceedings resulting therefrom shall be presumed to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose.

10-905. Admissibility of evidence. In any proceeding resulting from a report made pursuant to the provisions of this act or in any proceeding where such a report or any contents thereof are sought to be introduced into evidence, such report or contents thereof or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

F.

CRIMES AGAINST OR CONCERNING CHILDREN

4-330. Purchase of beer by retailer--persons to whom beer may not be sold, delivered or given by brewers, wholesalers or retailers. It shall be unlawful for such retailer to purchase or acquire beer from anyone except a brewer or wholesaler licensed under the provisions of this act.

It shall be unlawful for any brewer, wholesaler or retailer, his or her employee or employees to sell, deliver or give away, or cause or permit to be sold, delivered or given away, any beer to:

1. Any person under the age of nineteen (19) years;
2. Any intoxicated person or any person actually, apparently, or obviously intoxicated;
3. An habitual drunkard; or
4. An interdicted person.

Any brewer, wholesaler or retailer violating any of the provisions of this section, shall upon conviction thereof be subject to the penalties provided for in section 4-305 of the Montana Beer Act, and in addition thereto the license of any such brewer wholesaler or retailer shall, in the discretion of the board, be immediately revoked, or said license may be suspended for a period of not more than three (3) months. Any minor or other person who knowingly misrepresents his or her qualification for the purpose of obtaining beer from any license shall be equally guilty with said license and shall, upon conviction thereof, be subject to the penalty provided in section 4-305 of the Montana Beer Act.

4-337. Railroad car or carrier's license--application for and issuance of license--inspection--sale to persons under nineteen (19) years of age or disorderly person. Any person maintaining or operating any railroad car or train as a common carrier for the transportation of passengers, or any other person operating a buffet or dining car for any common carrier, desiring to sell beer under the provisions of this act, shall first apply to the board for a permit to do so, accompanying the application with the license fee herein prescribed. Upon being satisfied from said application or otherwise that the applicant is qualified under the provisions of this act, the board shall issue

a license for the sale of beer by such person which shall at all times be prominently displayed in the car, operated by the applicant, wherein beer or malt liquors are served. The board shall have the right at any time to make an inspection of the train or cars operated by any railway company in this state, to ascertain whether this act is being strictly complied with, and if not, the board is authorized and empowered to cancel such license, after which the sale of any beer or malt liquors by any such common carrier or other person operating buffet or dining car for such common carrier, shall be unlawful and subject to the penalties herein prescribed. And it shall be unlawful for any such common carrier, or other person operating buffet or dining car for such common carrier, to sell beer or malt liquors to any person under the age of nineteen (19) years or who may appear to be in an intoxicated or disorderly condition.

4-345. Common nuisance defined--misdemeanor--lien on premises--disposal of beer to minors. Any room, house, building, boat, vehicle, structure, or place where beer is manufactured, sold, or bartered in violation of this act, and all property kept and used in maintaining the same, is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction therof shall be fined not less than one hundred dollars ($100.00), nor more than five hundred dollars($500.00), and be imprisoned not less than thirty (30) days nor more than six (6) months. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of beer contrary to the provisions of this act, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to lien for any may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation, and any such lien may be enforced by action in any court having jurisdiction. Any person whomsoever whether a licensee or not, who shall without the corporate limit of any city or town, permit minors to congregate and sell or give away to said minors beer or other liquors shall be deemed guilty of maintaining a nuisance and shall be subject to all the provisions of this section.

4-413. Persons to whom liquor may not be sold or given. No licensee or his or her employee or employees, nor any other person, shall sell, deliver, or give away or cause or permit to be sold, delivered or given away any liquor, beer or wine to:

1. Any person under the age of nineteen (19) years.

2. Any intoxicated person or any person actually, apparently or obviously intoxicated.

3. A habitual drunkard.

4. An interdicted person.

5. Any minor, or other person who knowingly misrepresents his or her qualifications for the purpose of obtaining liquor, beer or wine from such licensee shall be equally guilty with said licensee and shall, upon conviction thereof, be subject to the penalty provided in section 4-439 provided, however, that nothing herein contained shall be construed as authorizing or permitting the sale of liquor, beer or wine to any person in violation of any federal law.

4-439. Penalty for violating act--revocation of license. Any person violating any of the provisions of this act, shall upon conviction thereof, be deemed guilty of a misdemeanor and punishable by such fine or imprisonment, or both, as provided by law, except as is herein otherwise provided. If any such licensee is convicted of any offense under this act his license shall be immediately revoked, or in the discretion of the board suspended temporarily for a time to be determined by the board. Further, if any person under the age of nineteen (19) years is convicted of an offense under this act he shall be subject to a one hundred dollar ($100.00) fine or thirty (30) days in confinement. It shall be further mandatory under the provisions of this act that all such licensees display in a prominent place in his premises a placard as issued by the board stating fully the consequences for violations by persons under the age of nineteen (19) years of the provisions of this act.

Any person who invites a person under the age of nineteen (19) years into a public place where liquor is sold and treats, gives or purchases liquor for such person, or permits such person in a public place where liquor is sold to treat, gives or purchases liquor for him, or holds out such person to be over the age of nineteen (19) years to the owner of the liquor establishment, or his or her employee or employees, shall be guilty of a misdemeanor.

10-202. Liability of parent. Any parent, guardian, or other person having the care, custoday, or control of any child under the age of sixteen years, who shall permit, suffer, or allow any such child to work or perform services for any person, company, firm, association, or corporation doing business in this state, or who shall permit or allow any such child over whom he has such care, custody, or control to retain such employment as is prohibited in the preceding section whether under contract of employment or not, shall be guilty of a misdemeanor and punishable as hereinafter provided.

10-207. Prohibiting employment of children in mines. Any person, corporation, stock company, or association of persons, owning or operating any underground mine, or any officer, agent, foreman, or boss, having the control or management of employees, or having the power to hire or discharge employees, who shall employ, or knowingly permit to be employed, any child under the age of sixteen (16) years, for work or service in any such mine, or the underground workings thereof, or permit or allow any such child to render or perform any work or service whatever in such mine, whether under contract of employment or otherwise, shall be guilty of a misdemeanor and punishable as hereinafter provided.

10-208. Employment of a child in a mine--penalty. Every person who receives or employs any child under fourteen (14) years of age in any underground work or mine, or in any similar business, is punishable by a fine not exceeding one thousand dollars ($1000.00).

10-209. Parent permitting employment guilty of misdemeanor. Any parent, guardian, or other person having the care, custody, or control of any child under the age of sixteen (16) years, who shall permit, suffer, or allow such child to work in any mine having underground workings, or who shall permit or allow any such child over whom they may have such care, custody, or control to retain employment in any such mine, or who, after having knowledge that any such child has taken employment in any such mine, or is performing work or service therein, whether under contract of employment or not, shall fail forthwith to notify the person or corporation owning or operating such mine, or some officer, foreman, or employee thereof having the power to hire or discharge employees, of the

age of such child, shall be guilty of a misdemeanor and punishable as hereinafter provided.

69-1902. Prohibitions and exceptions. No person shall manufacture, have, keep, or store explosives in this state, except in compliance with this act, except that explosives may be manufactured without compliance with this act in the laboratories of schools, colleges and similar institutions, for the purpose of investigation and instruction.

It shall be unlawful to sell, give away, or otherwise dispose of, or deliver to any person under eighteen (18) years of age any explosives, whether said person is acting for himself or for any other person.

75-6109. Power of teacher over pupils and undue punishment. Any teacher shall have the authority to hold any pupil to a strict accountability for any disorderly conduct in school, on the way to or from school, or during intermission or recess. Whenever a teacher shall deem it necessary to inflict corporal punishment in order to maintain orderly conduct of a pupil, he shall administer such corporal punishment without undue anger and only in the presence of the principal, if there be one. Before any corporal punishment is administered, the parent or guardian shall be notified of the teacher's intention to so punish his child; except that in cases of open and flagrant defiance of the teacher or of the school, the teacher may administer corporal punishment without giving such notice.

Any teacher in a district not employing a district superintendent or a principal of the school where the teacher is assigned shall have the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, he shall notify the trustees immediately of such action, and the trustees shall meet as soon as practicable to consider the suspension action of the teacher.

It shall be the duty of any teacher to report the truancy or incorrigibility of any pupil to the district superintendent, principal, or the trustees, whichever is applicable.

Any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined not more than one hundred dollars ($100.00)

75-6110. Abuse of teachers. Any parent, guardian, or other person who shall insult or abuse a teacher anywhere on the school grounds or school premises shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined no less than twenty-five dollars($25.00), nor more than five hundred dollars ($500.00).

75-6303. Compulsory enrollment and excuses. Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth(8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable. Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he established residence in the district unless:

(1) the child is enrolled in a private institution which provides instruction in the subject prescribed by section 75-7503 or section 75-7504, whichever is applicable, and in which the basic language taught is English;

(2) the child is enrolled in a school of another district or state under any of the tuition provisions of this Title;

(3) the child is provided with supervised correspondence study or supervised home study under the transportation provisions of this Title; or

(4) the child is excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this Title.

The excuse provided for in subsection (4), above, shall be issued by the district superintendent, or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within ten (10) days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

(5) the child is excused from compulsory school attend-

ance is not in the best interest of the child.

75-6304. Compulsory attendance and excuses. Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year but has not reached his sixteenth birthday, or of a child who has not completed the work of the eighth (8th) grade, shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district unless:

(1) the child has been excused under one of the conditions specified in section 75-6303;

(2) the child is absent because of illness, bereavement or other reason prescribed by the policies of the trustees; or

(3) the child has been suspended or expelled under the provisions of section 75-6311.

75-6307. Truancy. Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under provisions of this Title, he shall notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of his child shall result in his prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within two (2) days after the receipt of the notice, the attendance officer shall file a complaint against such person in a court of competent jurisdiction. If convicted, such person shall be fined not less than five dollars ($5.00) nor more than twenty dollars ($20.00). In the alternative, he may be required to give bond in the penal sum of one hundred dollars ($100.00) with sureties, conditioned upon his agreement to cause the enrollment of his child within two (2) days thereafter in a school providing the courses of instruction required by this Title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, he shall be imprisoned in the county jail for a term of not less than ten (10) days or more than thirty (30) days.

80-2212. Aiding resident in leaving school--penalty. A person who permits or assists a resident of any juvenile facility to leave a facility without permission, or who furnished to attempts to furnish to such a resident a tool, weapon, or other article with the intent of aiding him to leave without permission or who harbors or conceals a resident who has left without permission, shall on conviction be punished by imprisonment for a term of not less than six (6) months or more than two (2) years, or by a fine not exceeding one thousand dollars ($1000.00), or by both such fine and imprisonment.

94-305. Disposing of child for mendicant business. Any person, whether as a parent, guardian, relative, employer or otherwise, having in his care, custody or control any child under the age of sixteen (16) years, who shall sell, apprentice, give away, let out, or otherwise dispose of any such child to any person, under any name, title, or pretense, for the vocation, use, occupation, calling, service, or purpose of singing, playing on musical instruments, ropewalking, dancing, begging, or peddling in any public street or highway, or in any mendicant or wandering business whatever, and any person who shall take receive, hire, employ, use, or have in custody any child for such purposes, or either of them, is guilty of a misdemeanor.

94-3579. Firearms--use of by children under the age of fourteen (14) years prohibited. It shall be unlawful for any parent, guardian, or other person, having the charge or custody of any minor child under the age of fourteen (14) years, to permit such minor child to carry or use any firearms of any description, loaded with powder and lead, in public, except when s such child is in the company of such parent or guardian or under the supervision of a qualified firearms safety instructor, who has been duly authorized by such parent or guardian.

94-35-106. Intoxicating liquors--penalty for giving or selling to any person under the age of nineteen (19) years. Any person who shall sell, give away or dispose of intoxicating liquor to any persons under the age of nineteen (19) years, shall for the first offense be subject to punishment not exceeding five hundred dollar ($500.00) fine or by imprisonment not to exceed six (6) months in the county jail, or both such fine and imprisonment, and upon conviction for the second and subsequent offenses

he shall be subject to punishment by fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2000.00) or by imprisonment in the state penitentiary for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment. Nothing herein contained shall prevent the furnishing of intoxicating liquor to a person under nineteen (19) years of age upon any physician's prescription where authorized by the laws of this state or the United States nor the furnishing of wine for sacramental purposes.

94-35-137 Minors, admission of, to place of prostitution. Any proprietor, keeper, manager, conductor, or person having the control of any house of prostitution, or any house or room resorted to for the purpose of prostitution, who shall admit or keep any minor of either sex therein, or any parent or guardian of any such minor who shall admit or keep such minor, or sanction or connive at the admission or keeping thereof into or in any such house or room, shall be guilty of a misdemeanor.

94-35-208. Selling tobacco to minors. Every person who sells or gives any tobacco, cigars, cigarettes, or cigarette paper to any minor under eighteen (18) years of age, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars ($25.00), nor more than five hundred dollars ($500.00), or imprisonment not to exceed three (3) months in the county jail, or both such fine and imprisonment, in the discretion of the court.

94-4004. Penalty for permitting minors in pool or billiard hall. Every owner, proprietor, manager, or employee of a pool or billiard hall who permits a minor under the age of eighteen (18) years to play, resort, or stop therein, is guilty of a misdemeanor.

94-4101. Rape defined. Rape is an act of sexual intercourse, accomplished with a female, not the wife of the perpetrator, under any of the following circumstances:

(1) When the female in under the age of eighteen (18) years....

94-4106. Lewd and lascivious acts upon children. Any person over the age of eighteen (18) years, who shall willfully

and lewdly commit any lewd and lascivious act, other than the acts constituting other crimes provided in sections 94-4101 to 94-4108, upon or with the body or any part or member thereof, of a child under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, or of such child, shall be guilty of a felony, and shall be imprisoned in the state prison not exceeding twenty-five(25) years.

G.

CRIMES WHICH ONLY A MINOR MAY COMMIT

4-512. Misrepresenting age or falsely procuring or altering identification card. It shall be unlawful for any person to fraudulently misrepresent his or her age to any dispenser of intoxicating liquor, or to falsely procure an indentification card, or to alter any of the statements contained in the identification card as herein provided for.

94-35-106. 2. Possession of beer or liquor by minor--misdemeanor. Any person who shall not have reached the age of nineteen (19) years and who shall have in his or her possession beer or liquor, shall be guilty of a misdemeanor.

H.

MISCELLANEOUS

61-112.1. Destruction of property by person under eighteen (18) years of age--liability of parents for. Any municipal corporation, county, city, town, school district or department of the state of Montana, or any person, or any religious organization whether incorporated or unincorporated, shall be entitled to recover damages in a civil action in an amount not to exceed three hundred dollars ($300. 00) in a court of competent jurisdiction from the parents of any person under the age of eighteen (18) years, living with the parents, who shall maliciously or willfully destroy property, real, personal, or mixed, belonging to such municipal corporation, county, city, town, school district or department of the state of Montana or person or religious organization.

61-112.2. Limitation on amount of recovery. The recovery shall be limited to the actual damages in an amount not to exceed three hundred dollars ($300.00) in addition to taxable court costs, and a reasonable attorney's fee to be set by the court, not to exceed one hundred dollars ($100.00). The right to recover attorney fees as provided by the section shall be limited to a person bringing action under section 61-112.1, R.C.M., 1947.

94-4120. Child under age of sixteen (16) years cannot be accomplice. No child under the age of sixteen (16) years can be an accomplice to the commission or attempted commission of the infamous crime against nature.